

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Wayne Williams,

Complainant,

vs.

Allan and Peggy Martin,

Defendants.

(ECP)  
Case 05-10-036  
(Filed October 27, 2005)

Donald Shilling,

Complainant,

vs.

Allan and Peggy Martin,

Defendants.

(ECP)  
Case 05-12-020  
(Filed December 15, 2005)

Wayne Williams, complainant, in pro per.  
Angelina Martin for defendants Allan Martin and  
Peggy Martin, who were present at both  
evidentiary hearings.

**ORDER DISMISSING COMPLAINTS**

This decision dismisses complaints brought by two residents of Martin's Rainbow Resort, a residential RV park in Isleton, California for additional refunds they claim to be owed for electric utility service.

On December 8, 2005, the Administrative Law Judge (ALJ) heard Case (C.) 05-10-036 in Isleton. The complainant, Wayne Williams, testified on his own behalf, and Donald Shilling, who filed the second of the two cases, offered corroborating testimony to the effect that he had not received the full amount of refunds for electric service to which he claimed to be entitled under the same tariffs relied upon by Williams. Williams testified concerning his own refund claim, and the defendants agreed that he was entitled to an additional refund. At the hearing they presented Williams with a check for \$140.30, the entire amount of the unpaid difference they believed they owed him, and testified about the methodology they had used to compute the original and supplemental refunds for Williams and the other tenants of the park.

At the conclusion of the December 8 hearing Williams was skeptical that the amount offered in liquidation of his claim was sufficient. The ALJ gave Williams an opportunity to review the defendants' computations, and permission to submit an additional exhibit before the record was closed if he believed he was entitled to a larger refund. Williams served additional material consisting of various rate sheets downloaded from Pacific Gas and Electric Company's (PG&E) internet website, most of which were not pertinent to the computation of his refund. The case was submitted for decision on December 30, 2005.

Shilling filed the complaint in C.05-12-020 on December 15, 2005, before the Williams case was submitted. Inasmuch as Shilling lived in the same RV park and sought a refund from the defendants on the same grounds as

Williams, the ALJ reopened the record in the Williams case and consolidated the two cases pursuant to Rule 55 of the Commission's Rules of Practice and Procedure.

The ALJ heard the Shilling case in Isleton on February 2, 2006. The defendants appeared, but Shilling did not. However, in light of the fact that the two cases were consolidated, the ALJ relied upon Shilling's testimony in the Williams hearing to satisfy his burden of coming forward with evidence to support his claim that his refund also had not been properly computed.

Each of the complainants lived in the defendants' park for some period between 2002 and 2005. The park is submetered, and every tenant pays a metered share of the defendants' total electric bill as part of the rent. A charge for the previous month's electric service appears on each tenant's monthly rent statement. Applicable tariff rules require the defendants to charge their tenants for electric service at rates that the serving utility, in this case PG&E, would charge for comparable service. If the defendants overcharge or undercharge for the service for any reason, they must make subsequent adjustments on the same basis as would the serving utility.

A legislated rate reduction was implemented on January 1, 1998, resulting from the Electric Utility Industry Restructuring Act (Assembly Bill 1890), which became law on September 23, 1996. AB 1890 required electric utilities to initiate a cost recovery plan that set electric rates for customers receiving service from those utilities at June 10, 1996 levels, and provided that rates for customers would be reduced so they would receive rate reductions of at least 10 percent. Effective January 1, 1998, residential and small commercial electric customers began receiving a 10 percent reduction of their electric rates. Because an RV park owner is obligated to pass any rate reduction through to submetered tenants, the

owner must refund overcharges that resulted from charging the tenants rates that did not reflect the legislated reduction.

At both hearings Angelina Martin, who manages Martin's Rainbow Resort for her parents, the defendants, testified that she had computed and paid, through rent credits or in cash, legislated refunds of PG&E electric charges that had been paid by the tenants of the RV park. She also explained the methodology she utilized to make the refunds. In substance, she testified that she initially made refunds that were not properly computed, but that she later recomputed the refunds and gave each tenant an additional credit or check representing the amount of the difference they were owed. She believed that the adjusted amounts of the refunds were correct.

Although it is clear from her testimony that Ms. Martin made a good faith effort to compute and pay the refunds correctly, the methodology she used was not entirely correct, so the refunds varied slightly from the amounts that would result from precise application of the tariffs. For example, the defendants charged each tenant a flat \$5.00 monthly service charge, which is not provided for in the PG&E tariff, whereas computing the charge for submetered customers from the tariffs would produce minimum monthly charges of \$3.55 to \$4.44 until the kilowatt-hour use exceeds the amount of the minimum charge for the month.

It is not surprising that the defendants' refund computations were somewhat imprecise, as the entire tariff structure relating to the legislated refunds is intricate and confusing. In an effort to obtain corrected refund computations for the two complainants, on May 8, 2006, the ALJ issued a ruling that set forth the methodology furnished by Commission Energy Division staff, and required the defendants to provide an exhibit showing the amounts of the complainants' refunds when recomputed in accordance with these instructions.

Once again the defendants made a good faith effort to compute the refunds from the tariffs and report any variations from what the two complainants had been paid. However, the results that the defendants reported in their response were clearly wrong, as they would require the defendants to refund most of what the complainants had paid for all of their electric service over the entire three-year period. On the other hand, the refunds that the defendants have already paid are proportionally in line with what we would reasonably expect.

Although the evidence concerning the calculation of the complainants' refunds is muddled, it is clear that the defendants' own calculations (as initially adjusted) are the best available in the record. The complainants have not effectively challenged those calculations, except by bare assertions. The defendants attempted to apply the methodology furnished by the Commission, and the results they obtained are obviously incorrect. There is nothing in the record indicating that there was any significant mistake in the calculations upon which the defendants relied, and we will not require those calculations to be changed. Substantial justice has been done, and both cases should be dismissed.

### **Assignment of Proceeding**

John A. Bohn and Geoffrey F. Brown are the Assigned Commissioners and Victor D. Ryerson is the assigned ALJ in these proceedings.

**IT IS THEREFORE ORDERED** that:

1. The complaint in Case 05-10-036 is dismissed, and the proceeding is closed.
2. The complaint in Case 05-12-020 is dismissed, and the proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.